

**COMMONWEALTH OF KENTUCKY FISCAL NOTE STATEMENT
LEGISLATIVE RESEARCH COMMISSION
2021 REGULAR SESSION**

MEASURE

2021 BR NUMBER 372

HOUSE BILL NUMBER 149

TITLE AN ACT relating to opportunities in education.

SPONSOR Representative C. McCoy

FISCAL SUMMARY

STATE FISCAL IMPACT: ☒ YES ☐ NO ☐ UNCERTAIN

OTHER FISCAL STATEMENT(S) THAT MAY APPLY: ☐ ACTUARIAL ANALYSIS
☐ LOCAL MANDATE ☐ CORRECTIONS IMPACT ☐ HEALTH BENEFIT MANDATE

APPROPRIATION UNIT(S) IMPACTED: _____

FUND(S) IMPACTED: ☒ GENERAL ☐ ROAD ☐ FEDERAL ☐ RESTRICTED _____

FISCAL ESTIMATES	2020-2021	2021-2022	ANNUAL IMPACT AT FULL IMPLEMENTATION
REVENUES		(\$7,000,000)	(Negative impact increases when the cap is raised by 25%)
EXPENDITURES			
NET EFFECT		(\$7,000,000)	(Negative impact increases when the cap is raised by 25%)

() indicates a decrease/negative

PURPOSE OF MEASURE: This proposal, if enacted, establishes the Education Opportunity Account Program or EOA program. The EOA program allows a tax credit for contributions made to Account Granting Organizations (AGO) for the purpose of providing funding for qualifying educational expenses of eligible students who participate in the EOA program. The credit may be claimed against individual income tax, corporation income tax, and limited liability entity tax. To qualify for the credit, the taxpayer, filing as an individual, shall elect to claim a federal and Kentucky contribution deduction associated with the contributions made to AGO that does not exceed an amount equal to the total contribution for the taxable year less the amount of credit allowed by this proposed legislation for the taxable year.

Taxpayers are eligible for a tax credit equal to the lesser of 95 percent of the contribution or \$1,000,000 if the contribution is made for one year. If a multi-year contribution commitment is made, the tax credit will increase to the lesser of 97 percent of the contribution or \$1,000,000 in each year in which the commitment is made. The credit may be carried forward for up to five succeeding taxable years until the full amount of the credit has been used.

Only contributions to AGOs on the list maintained by the Department of Revenue for each calendar year shall be recognized for tax credits under this proposal. Prior to making the contribution, the taxpayer or AGO acting on behalf of the taxpayer is required to apply to the Department of Revenue for preapproval.

The aggregate value of the tax credit awarded beginning in fiscal year 2022 shall not exceed \$25,000,000. The aggregate value of the tax credit in subsequent fiscal years is increased by 25 percent if 90 percent of the annual credit cap is reached in the immediately preceding fiscal year. If the threshold to increase the cap is met each year, the credit would have the following negative impact to the General Fund over the next ten years.

FY 2022 - (\$25,000,000)	FY 2027 - (\$76,293,945)
FY 2023 - (\$31,250,000)	FY 2028 - (\$95,368,432)
FY 2024 - (\$39,062,500)	FY 2029 - (\$119,209,290)
FY 2025 - (\$48,828,125)	FY 2030 - (\$149,011,612)
FY 2026 - (\$61,035,156)	FY 2031 - (\$186,264,515)

To qualify for a scholarship under this proposed legislation, the eligible student must meet one of the following criteria:

1. The student must be a member of a household with an annual household income at the time of initially applying of not more than 200 percent of the amount of household income necessary to establish eligibility for federal reduced-price meals program;
2. The student has previously received funds from an AGO under an EOA program; or
3. The student is a member of the household of an eligible student that is currently receiving funds from an AGO under an EOA program.

FISCAL EXPLANATION: It is estimated that there will be an impact of (\$7,000,000) to the General Fund in FY 2022 related to the reduction of June 2021 estimated payments made by individuals and corporations in anticipation of making the applicable contributions during the taxable year. The full fiscal impact of the tax credit would occur after the biennium.

If students, who currently attend a public school system in Kentucky that receives SEEK funding, transfer to a private school system as a result of receiving funds from this program, the SEEK funding for that school district could be indirectly adjusted. SEEK funding is based on a specific formula, and in order to estimate the adjustment in SEEK funding specific information would be needed about the students who transfer and the school districts the students left. Since it cannot be forecasted which students will transfer or which school district they will leave, the necessary information to determine if the SEEK funding will change is not obtainable.

If enough students leave to cause a school district's enrollment to decline, the school district's SEEK funding would reduce, which would result in lower state funds for the school district and excess SEEK funds for the state. Any excess in SEEK funds will be allocated in accordance with the biennial budget bill. Therefore, excess SEEK funds may not be returned to the General Fund during the biennial budget. Overall, due to the necessary information not being obtainable, the fiscal impact HB 149 has on SEEK funds is indeterminable.

DATA SOURCE(S): LRC Staff

PREPARER: Cynthia Brown **NOTE NUMBER:** 9 **REVIEW:** JAB **DATE:** 2/3/2021